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SIPDIS

DEPARTMENT FOR OES/OA (LIZ TIRPAK) AND EUR/WE

E.O. 12958: N/A

TAGS: [KRVC](#) [KTIA](#) [PHSA](#) [SENV](#) [SP](#)

SUBJECT: U.S. COMMERCIAL VESSEL REQUEST TO MEET WITH OES EXPERTS

REF: A. STATE 52463 AND PREVIOUS

[1](#)B. FORDER/TIRPAK EMAILS

[1](#)1. This is an action request for OES/OA -- see paragraph 7

[1](#)2. SUMMARY: Mr. Chuck Collins, representative of 3U Technologies, requests to meet with OES/OA, L/OES, and other OES experts sometime between May 23-25 to discuss several options his company is considering pending resolution of its request to conduct commercial research in Spanish territorial waters. Madrid requests that OES/OA (Liz Tirpak) organize this meeting and inform Mr. Collins directly of the desired date/time/place. END SUMMARY.

[1](#)3. As Washington is aware, MFA Note Verbale 127/18, dated May 11, granted 3U permission to conduct its research program in Spanish waters. The note (paragraph seven) conditioned MFA approval on 3U's agreement to board a Spanish Navy technician while operating in Spanish waters. Via U.S. Note Verbale 242, dated May 16, we asked, at 3U's request (and with OES/OA authorization), that the Spanish Navy sign two non-disclosure agreements prior to the Navy technician boarding the 3U vessel. The Navy is studying the request and it remains unclear when and if it will agree to sign these two documents.

[1](#)4. Given the above, 3U's ability to conduct its research campaign in Spanish waters remains uncertain. In a May 17 meeting with ECONCOUNS and ESTHOFF, Mr. Collins indicated that 3U has lost faith in the GOS and may thus abandon its plan to conduct research in Spanish waters. If 3U makes this decision, it will consider three other options: (1) conduct the research without Spanish authorization in Gibraltar waters (within the three mile line) and in international waters off Spain (beyond the 12 mile line); (2) approach Morocco about conducting the research within Moroccan waters; or, (3) postpone the research and return to the U.S.

[1](#)5. Prior to making its business decision, 3U requests "informal, expert advice" from Department officials. Specifically, Mr. Collins would like to explore Department views about option (1) above. In other words, would the USG interpretation of UNCLOS permit 3U to conduct research outside the 12 mile line (but inside the 200 mile Spanish EEZ) without Spanish authorization. Mr. Collins would also like to know U.S. views about conducting the research within three miles of Gibraltar (with a UK permit). He is aware of the controversy surrounding Odyssey's proposal to conduct maritime salvage operations in this same area. Finally, Mr. Collin's would like USG views about approaching Morocco, if necessary.

[1](#)6. Mr. Collins may suggest that if 3U chooses option (1), the USG consider two courses of action to safeguard possible 3U operations beyond the 12 mile line: (A) place a USG official on board the 3U vessel; and/or, (B) deliver a Note Verbale to the GOS informing Madrid that 3U plans to conduct its research beyond the 12 mile line and that the U.S. interpretation of UNCLOS suggests that no/no GOS permit would be required for such activity. Mr. Collins believes this would help dissuade any possible Spanish attempts to interfere with a potential 3U research cruise beyond the 12 mile line.

[1](#)7. ACTION REQUEST: Mr. Collins said he would be in Washington next week and would like to meet with appropriate State Department experts at any time May 23-25. Embassy requests that OES/OA organize such a meeting that would include OES/OA, L/OES, and other appropriate officials. Embassy requests that OES/OA (Liz Tirpak) call Mr. Collins no later than May 20 with the date/time/place of this meeting.

[1](#)8. COMMENT: We understand 3U's frustration and lack of faith in the GOS's ability to take the steps required to allow 3U to conduct its research in Spanish waters. To help inform those who will attend the meeting with Mr. Collins, ESTHOFF contacted May 18 the Spanish Navy Captain responsible for both reviewing the 3U provided nondisclosure agreements and determining the modalities of boarding the Spanish Navy technician. The Captain said he could not speak with ESTHOFF without the permission of his Admiral and that he doubted the Admiral would approve any communication with the Embassy that does not pass through MFA. ESTHOFF then contacted the

responsible MFA official, who said he could not predict when or even if the Navy would agree to sign the nondisclosure agreements. This official said MFA views the agreements as "routine" and was urging the Navy to sign. The Navy, however, was seeking a formal MFA legal review of the documents that could delay further action for weeks. Thus, at this time, we cannot say with any degree of certainty that 3U will be able to conduct its research in Spanish waters.

19. COMMENT CONTINUED: The block would be removed if 3U decided it could board the Navy technician without the nondisclosure documents being signed. But 3U's attorney's claim that the "Jones Act" requires signature. If 3U remains firm on this point, and we believe it will, it appears that the Spanish option could be off the table (at least for the imminent future). This makes it all the more urgent that Department experts meet with Mr. Collins to provide USG views about other research options under consideration. For its part, Embassy Madrid will continue to work with 3U and OES/OA to ensure that 3U is well represented and advised as it continues its efforts to get its project underway.

10. NOTE: Mr. Collins provided ESTHOFF a handwritten document that he believes could interest participants in the meeting he has requested. This document has been faxed to OES/OA (Liz Tirpak).  
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